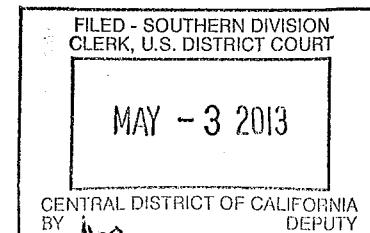


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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARILYNNE PIKE; ARNIE T. PIKE;
and CHRISTIE RUDDER, individuals,
Plaintiffs,

v.

CITY OF ANAHEIM; ANAHEIM
ARENA MANAGEMENT, LLC; and
DOES 1 Through 10, inclusive,

Defendants.

Case No. 8:12-cv-00838-JVS (ANx)
(Proposed) CONFIDENTIALITY
ORDER

ANAHEIM ARENA MANAGEMENT,
LLC,

Third Party Claimant,

v.

ARAMARK ENTERTAINMENT, LLC,
Third Party Defendant.

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve
3 production of confidential, proprietary, or private information for which special
4 protection from public disclosure and from use for any purpose other than
5 prosecuting this litigation may be warranted. Accordingly, the parties hereby
6 stipulate to and petition the court to enter the following Confidentiality Order. The
7 parties acknowledge that this Order does not confer blanket protections on all
8 disclosures or responses to discovery and that the protection it affords from public
9 disclosure and use extends only to the limited information or items that are entitled
10 to confidential treatment under the applicable legal principles. The parties further
11 acknowledge, as set forth in Section 14.4, below, that this Confidentiality Order
12 does not entitle them to file confidential information under seal; Civil Local Rule
13 79-5 set forth the procedures that must be followed and the standards that will be
14 applied when a party seeks permission from the court to file material under seal.

15 **2. DEFINITIONS**

16 2.1 Challenging Party: a Party or Non-Party that challenges the
17 designation of information or items under this Order.

18 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
19 how it is generated, stored or maintained) or tangible things that qualify for
20 protection under Federal Rule of Civil Procedure 26(c).

21 2.3 Counsel (without qualifier): Outside Counsel of Record and House
22 Counsel (as well as their support staff).

23 2.4 Designated House Counsel: House Counsel who seek access to
24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this
25 matter.

26 2.5 Designating Party: a Party or Non-Party that designates information or
27 items that it produces in disclosures or in responses to discovery as

1 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
2 ONLY.”

3 2.6 Disclosure or Discovery Material: all items or information, regardless
4 of the medium or manner in which it is generated, stored, or maintained (including,
5 among other things, testimony, transcripts, and tangible things), that are produced
6 or generated in disclosures or responses to discovery in this matter.

7 2.7 Expert: a person with specialized knowledge or experience in a matter
8 pertinent to the litigation who (1) has been retained by a Party or its counsel to
9 serve as an expert witness or as a consultant in this action, (2) is not a past or
10 current employee of a Party or of a Party’s competitor, and (3) at the time of
11 retention, is not anticipated to become an employee of a Party or of a Party’s
12 competitor.

13 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
14 Information or Items: extremely sensitive “Confidential Information or Items,”
15 disclosure of which to another Party or Non-Party would create a substantial risk of
16 serious harm that could not be avoided by less restrictive means.

17 2.9 *Reserved.*

18 2.10 House Counsel: attorneys who are employees of a party to this action.
19 House Counsel does not include Outside Counsel of Record or any other outside
20 counsel.

21 2.11 Non-Party: any natural person, partnership, corporation, association, or
22 other legal entity not named as a Party to this action.

23 2.12 Outside Counsel of Record: attorneys who are not employees of a
24 party to this action but are retained to represent or advise a party to this action and
25 have appeared in this action on behalf of that party or are affiliated with a law firm
26 which has appeared on behalf of that party.

27 2.13 Party: any party to this action, including all of its officers, directors,
28 employees, consultants, retained experts, and Outside Counsel of Record (and their

1 support staffs).

2 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
3 Discovery Material in this action.

4 2.15 Professional Vendors: persons or entities that provide litigation
5 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
6 demonstrations, and organizing, storing, or retrieving data in any form or medium)
7 and their employees and subcontractors.

8 2.16 Protected Material: any Disclosure or Discovery Material that is
9 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY.”

11 2.17 Receiving Party: a Party that receives Disclosure or Discovery
12 Material from a Producing Party.

13 **3. SCOPE**

14 The protections conferred by this Stipulation and Order cover not only
15 Protected Material (as defined above), but also (1) any information copied or
16 extracted from Protected Material; (2) all copies, excerpts, summaries, or
17 compilations of Protected Material; and (3) any testimony, conversations, or
18 presentations by Parties or their Counsel that might reveal Protected Material.
19 However, the protections conferred by this Stipulation and Order do not cover the
20 following information: (a) any information that is in the public domain at the time
21 of disclosure to a Receiving Party or becomes part of the public domain after its
22 disclosure to a Receiving Party as a result of publication not involving a violation
23 of this Order, including becoming part of the public record through trial or
24 otherwise; and (b) any information known to the Receiving Party prior to the
25 disclosure or obtained by the Receiving Party after the disclosure from a source
26 who obtained the information lawfully and under no obligation of confidentiality to
27 the Designating Party. Any use of Protected Material at trial shall be governed by a
28 separate agreement or order.

1 **4. DURATION**

2 Even after final disposition of this litigation, the confidentiality obligations
3 imposed by this Order shall remain in effect until a Designating Party agrees
4 otherwise in writing or a court order otherwise directs. Final disposition shall be
5 deemed to be the later of (1) dismissal of all claims and defenses in this action, with
6 or without prejudice; and (2) final judgment herein after the completion and
7 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
8 including the time limits for filing any motions or applications for extension of time
9 pursuant to applicable law.

10 **5. DESIGNATING PROTECTED MATERIAL**

11 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

12 Each Party or Non-Party that designates information or items for protection under
13 this Order must take care to limit any such designation to specific material that
14 qualifies under the appropriate standards. To the extent it is practical to do so, the
15 Designating Party must designate for protection only those parts of material,
16 documents, items, or oral or written communications that qualify – so that other
17 portions of the material, documents, items, or communications for which protection
18 is not warranted are not swept unjustifiably within the ambit of this Order.

19 Mass, indiscriminate, or routinized designations are prohibited. Designations
20 that are shown to be clearly unjustified or that have been made for an improper
21 purpose (e.g., to unnecessarily encumber or retard the case development process or
22 to impose unnecessary expenses and burdens on other parties) expose the
23 Designating Party to sanctions.

24 If it comes to a Designating Party's attention that information or items that it
25 designated for protection do not qualify for protection at all or do not qualify for the
26 level of protection initially asserted, that Designating Party must promptly notify all
27 other parties that it is withdrawing the mistaken designation.

28 **5.2 Manner and Timing of Designations.** Except as otherwise provided in

1 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
2 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
3 under this Order must be clearly so designated before the material is disclosed or
4 produced.

5 Designation in conformity with this Order requires:

6 (a) for information in documentary form (e.g., paper or electronic
7 documents, but excluding transcripts of depositions or other pretrial or trial
8 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
10 contains protected material. If only a portion or portions of the material on a page
11 qualifies for protection, the Producing Party also must clearly identify the protected
12 portion(s) (e.g., by making appropriate markings in the margins) and must specify,
13 for each portion, the level of protection being asserted.

14 A Party or Non-Party that makes original documents or materials available
15 for inspection need not designate them for protection until after the inspecting Party
16 has indicated which material it would like copied and produced. During the
17 inspection and before the designation, all of the material made available for
18 inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
19 ONLY.” After the inspecting Party has identified the documents it wants copied
20 and produced, the Producing Party must determine which documents, or portions
21 thereof, qualify for protection under this Order. Then, before producing the
22 specified documents, the Producing Party must affix the appropriate legend
23 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
24 ONLY” to each page that contains Protected Material. If only a portion or portions
25 of the material on a page qualifies for protection, the Producing Party also must
26 clearly identify the protected portion(s) (e.g., by making appropriate markings in
27 the margins) and must specify, for each portion, the level of protection being
28 asserted.

(b) for testimony given in deposition or in other pretrial or trial proceedings, that the Designating Party identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony and specify the level of protection being asserted. When it is impractical to identify separately each portion of testimony that is entitled to protection and it appears that substantial portions of the testimony may qualify for protection, the Designating Party may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21 days to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted. Only those portions of the testimony that are appropriately designated for protection within the 21 days shall be covered by the provisions of this Confidentiality Order. Alternatively, a Designating Party may specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

16 Parties shall give the other parties notice if they reasonably expect a
17 deposition, hearing or other proceeding to include Protected Material so that the
18 other parties can ensure that only authorized individuals who have signed the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
20 proceedings. The use of a document as an exhibit at a deposition shall not in any
21 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
22 – ATTORNEYS’ EYES ONLY.”

Transcripts containing Protected Material shall have an obvious legend on the title page that the transcript contains Protected Material, and the title page shall be followed by a list of all pages (including line numbers as appropriate) that have been designated as Protected Material and the level of protection being asserted by the Designating Party. The Designating Party shall inform the court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-day

1 period for designation shall be treated during that period as if it had been designated
2 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in its entirety unless
3 otherwise agreed. After the expiration of that period, the transcript shall be treated
4 only as actually designated.

5 (c) for information produced in some form other than documentary and
6 for any other tangible items, that the Producing Party affix in a prominent place on
7 the exterior of the container or containers in which the information or item is stored
8 the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
9 EYES ONLY." If only a portion or portions of the information or item warrant
10 protection, the Producing Party, to the extent practicable, shall identify the
11 protected portion(s) and specify the level of protection being asserted.

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
13 failure to designate qualified information or items does not, standing alone, waive
14 the Designating Party's right to secure protection under this Order for such
15 material. Upon timely correction of a designation, the Receiving Party must make
16 reasonable efforts to assure that the material is treated in accordance with the
17 provisions of this Order.

18 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

19 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
20 designation of confidentiality at any time. Unless a prompt challenge to a
21 Designating Party's confidentiality designation is necessary to avoid foreseeable,
22 substantial unfairness, unnecessary economic burdens, or a significant disruption or
23 delay of the litigation, a Party does not waive its right to challenge a confidentiality
24 designation by electing not to mount a challenge promptly after the original
25 designation is disclosed.

26 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
27 resolution process by providing written notice of each designation it is challenging
28 and describing the basis for each challenge. To avoid ambiguity as to whether a

challenge has been made, the written notice must recite that the challenge to confidentiality is being made in accordance with this specific paragraph of the Confidentiality Order. The parties shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in voice to voice dialogue; other forms of communication are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first or establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely manner.

6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a motion including the required declaration within 21 days (or 14 days, if applicable) shall automatically waive the confidentiality designation for each challenged designation. In addition, the Challenging Party may file a motion challenging a confidentiality designation at any time if there is good cause for doing so, including a challenge to the designation of a deposition transcript or any portions thereof. Any motion brought pursuant to this provision must be accompanied by a competent declaration affirming that the movant has

1 complied with the meet and confer requirements imposed by the preceding
2 paragraph.

3 The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Frivolous challenges and those made for an improper purpose
5 (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may
6 expose the Challenging Party to sanctions. Unless the Designating Party has waived
7 the confidentiality designation by failing to file a motion to retain confidentiality as
8 described above, all parties shall continue to afford the material in question the
9 level of protection to which it is entitled under the Producing Party's designation
10 until the court rules on the challenge.

11 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

12 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is
13 disclosed or produced by another Party or by a Non-Party in connection with this
14 case only for prosecuting, defending, or attempting to settle this litigation. Such
15 Protected Material may be disclosed only to the categories of persons and under the
16 conditions described in this Order. When the litigation has been terminated, a
17 Receiving Party must comply with the provisions of section 15 below (FINAL
18 DISPOSITION).

19 Protected Material must be stored and maintained by a Receiving Party at a
20 location and in a secure manner that ensures that access is limited to the persons
21 authorized under this Order.

22 **7.2 Disclosure of "CONFIDENTIAL" Information or Items.** Unless
23 otherwise ordered by the court or permitted in writing by the Designating Party, a
24 Receiving Party may disclose any information or item designated
25 "CONFIDENTIAL" only to:

26 (a) the Receiving Party's Outside Counsel of Record in this action, as
27 well as employees of said Outside Counsel of Record to whom it is reasonably
28 necessary to disclose the information for this litigation and who have signed the

1 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
2 A;

3 (b) the officers, directors, and employees (including House Counsel) of
4 the Receiving Party to whom disclosure is reasonably necessary for this litigation
5 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
6 A);

7 (c) Experts (as defined in this Order) of the Receiving Party to whom
8 disclosure is reasonably necessary for this litigation and who have signed the
9 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

10 (d) the court and its personnel;

11 (e) court reporters and their staff, professional jury or trial consultants,
12 and Professional Vendors to whom disclosure is reasonably necessary for this
13 litigation and who have signed the “Acknowledgment and Agreement to Be
14 Bound” (Exhibit A);

15 (f) during their depositions, witnesses in the action to whom disclosure
16 is reasonably necessary and who have signed the “Acknowledgment and
17 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
18 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits
19 to depositions that reveal Protected Material must be separately bound by the court
20 reporter and may not be disclosed to anyone except as permitted under this
21 Confidentiality Order.

22 (g) the author or recipient of a document containing the information or
23 a custodian or other person who otherwise possessed or knew the information.

24 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
25 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
26 writing by the Designating Party, a Receiving Party may disclose any information
27 or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
28 only to:

1 (a) the Receiving Party's Outside Counsel of Record in this action, the
2 employees of said Outside Counsel of Record to whom it is reasonably necessary to
3 disclose the information for this litigation, and the Receiving Party, each who have
4 signed the "Acknowledgment and Agreement to Be Bound" that is attached hereto
5 as Exhibit A;

6 (b) *Reserved*;

7 (c) Experts of the Receiving Party (1) to whom disclosure is
8 reasonably necessary for this litigation, (2) who have signed the "Acknowledgment
9 and Agreement to Be Bound" (Exhibit A), and (3) as to whom the procedures set
10 forth in paragraph 7.4(a)(2), below, have been followed];

11 (d) the court and its personnel;

12 (e) court reporters and their staff, professional jury or trial consultants,
13 and Professional Vendors to whom disclosure is reasonably necessary for this
14 litigation and who have signed the "Acknowledgment and Agreement to Be
15 Bound" (Exhibit A); and

16 (f) the author or recipient of a document containing the information or
17 a custodian or other person who otherwise possessed or knew the information.

18 7.4 Procedures for Approving or Objecting to Disclosure of "HIGHLY
19 CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items to
20 Experts.

21 (a)(1) *Reserved*.

22 (a)(2) Unless otherwise ordered by the court or agreed to in writing by
23 the Designating Party, a Party that seeks to disclose to an Expert (as defined in this
24 Order) any information or item that has been designated "HIGHLY
25 CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to paragraph 7.3(c)
26 first must make a written request to the Designating Party that (1) identifies the
27 general categories of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
28 ONLY" information that the Receiving Party seeks permission to disclose to the

1 Expert, (2) sets forth the full name of the Expert and the city and state of his or her
2 primary residence, (3) attaches a copy of the Expert's current resume, (4) identifies
3 the Expert's current employer(s), (5) identifies each person or entity from whom the
4 Expert has received compensation or funding for work in his or her areas of
5 expertise or to whom the expert has provided professional services, including in
6 connection with a litigation, at any time during the preceding five years,¹ and (6)
7 identifies (by name and number of the case, filing date, and location of court) any
8 litigation in connection with which the Expert has offered expert testimony,
9 including through a declaration, report, or testimony at a deposition or trial, during
10 the preceding five years.

11 (b) A Party that makes a request and provides the information
12 specified in the preceding respective paragraphs may disclose the subject Protected
13 Material to the identified Designated House Counsel or Expert unless, within 14
14 days of delivering the request, the Party receives a written objection from the
15 Designating Party. Any such objection must set forth in detail the grounds on which
16 it is based.

17 (c) A Party that receives a timely written objection must meet and
18 confer with the Designating Party (through direct voice to voice dialogue) to try to
19 resolve the matter by agreement within seven days of the written objection. If no
20 agreement is reached, the Party seeking to make the disclosure to Designated House
21 Counsel or the Expert may file a motion as provided in Civil Local Rule 7 (and in
22 compliance with Civil Local Rule 79-5) seeking permission from the court to do so.
23 Any such motion must describe the circumstances with specificity, set forth in
24 detail the reasons why the disclosure to Designated House Counsel or the Expert is

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26 ¹ If the Expert believes any of this information is subject to a confidentiality
27 obligation to a third-party, then the Expert should provide whatever information the
Expert believes can be disclosed without violating any confidentiality agreements,
and the Party seeking to disclose to the Expert shall be available to meet and confer
28 with the Designating Party regarding any such engagement.

1 reasonably necessary, assess the risk of harm that the disclosure would entail, and
2 suggest any additional means that could be used to reduce that risk. In addition, any
3 such motion must be accompanied by a competent declaration describing the
4 parties' efforts to resolve the matter by agreement (i.e., the extent and the content of
5 the meet and confer discussions) and setting forth the reasons advanced by the
6 Designating Party for its refusal to approve the disclosure.

7 In any such proceeding, the Party opposing disclosure to Designated House
8 Counsel or the Expert shall bear the burden of proving that the risk of harm that the
9 disclosure would entail (under the safeguards proposed) outweighs the Receiving
10 Party's need to disclose the Protected Material to its Designated House Counsel or
11 Expert.

12 **8. Reserved.**

13 **9. Reserved.**

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15 **10. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
16 **PRODUCED IN OTHER LITIGATION**

17 If a Party is served with a subpoena or a court order issued in other
18 litigation that compels disclosure of any information or items designated in this
19 action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
20 EYES ONLY" that Party must:

21 (a) promptly notify in writing the Designating Party. Such notification
22 shall include a copy of the subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena or
24 order to issue in the other litigation that some or all of the material covered by the
25 subpoena or order is subject to this Confidentiality Order. Such notification shall
26 include a copy of this Confidentiality Order; and

27 (c) cooperate with respect to all reasonable procedures sought to be

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1 pursued by the Designating Party whose Protected Material may be affected.²

2 If the Designating Party timely seeks a Confidentiality order, the Party
 3 served with the subpoena or court order shall not produce any information
 4 designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
 5 ATTORNEYS’ EYES ONLY” before a determination by the court from which the
 6 subpoena or order issued, unless the Party has obtained the Designating Party’s
 7 permission. The Designating Party shall bear the burden and expense of seeking
 8 protection in that court of its confidential material – and nothing in these provisions
 9 should be construed as authorizing or encouraging a Receiving Party in this action
 10 to disobey a lawful directive from another court.

11 **11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 12 PRODUCED IN THIS LITIGATION**

13 (a) The terms of this Order are applicable to information produced
 14 by a Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
 15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced by
 16 Non-Parties in connection with this litigation is protected by the remedies and relief
 17 provided by this Order. Nothing in these provisions should be construed as
 18 prohibiting a Non-Party from seeking additional protections.

19 (b) In the event that a Party is required, by a valid discovery
 20 request, to produce a Non-Party’s confidential information in its possession, and the
 21 Party is subject to an agreement with the Non-Party not to produce the Non-Party’s
 22 confidential information, then the Party shall:

23 1. promptly notify in writing the Requesting Party and the Non-
 24 Party that some or all of the information requested is subject to a confidentiality
 25 agreement with a Non-Party;

26 2 The purpose of imposing these duties is to alert the interested parties to the
 27 existence of this Confidentiality Order and to afford the Designating Party in this
 28 case an opportunity to try to protect its confidentiality interests in the court from
 which the subpoena or order issued.

1 2. promptly provide the Non-Party with a copy of the
2 Confidentiality Order in this litigation, the relevant discovery request(s), and a
3 reasonably specific description of the information requested; and

4 3. make the information requested available for inspection by the
5 Non-Party.

6 (c) If the Non-Party fails to object or seek a Confidentiality order
7 from this court within 14 days of receiving the notice and accompanying
8 information, the Receiving Party may produce the Non-Party's confidential
9 information responsive to the discovery request. If the Non-Party timely seeks a
10 Confidentiality order, the Receiving Party shall not produce any information in its
11 possession or control that is subject to the confidentiality agreement with the Non-
12 Party before a determination by the court.³ Absent a court order to the contrary, the
13 Non-Party shall bear the burden and expense of seeking protection in this court of
14 its Protected Material.

15 **12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

16 If a Receiving Party learns that, by inadvertence or otherwise, it has
17 disclosed Protected Material to any person or in any circumstance not authorized
18 under this Confidentiality Order, the Receiving Party must immediately (a) notify
19 in writing the Designating Party of the unauthorized disclosures, (b) use its best
20 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
21 person or persons to whom unauthorized disclosures were made of all the terms of
22 this Order, and (d) request such person or persons to execute the "Acknowledgment
23 and Agreement to Be Bound" that is attached hereto as Exhibit A.

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27 ³ The purpose of this provision is to alert the interested parties to the existence of
28 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to
protect its confidentiality interests in this court.

1 **13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
2 **PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other
5 protection, the obligations of the Receiving Parties are those set forth in Federal
6 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
7 whatever procedure may be established in an e-discovery order that provides for
8 production without prior privilege review. Pursuant to Federal Rule of Evidence
9 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
10 of a communication or information covered by the attorney-client privilege or work
11 product protection, the parties may incorporate their agreement in the
12 Confidentiality order submitted to the court.

13 **14. MISCELLANEOUS**

14 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
15 person to seek its modification by the court in the future.

16 14.2 Right to Assert Other Objections. By stipulating to the entry of this
17 Confidentiality Order no Party waives any right it otherwise would have to object
18 to disclosing or producing any information or item on any ground not addressed in
19 this Confidentiality Order. Similarly, no Party waives any right to object on any
20 ground to use in evidence of any of the material covered by this Confidentiality
21 Order.

22 14.3 *Reserved.*

23 14.4 Filing Protected Material. Without written permission from the
24 Designating Party or a court order secured after appropriate notice to all interested
25 persons, a Party may not file in the public record in this action any Protected
26 Material. A Party that seeks to file under seal any Protected Material must comply
27 with Civil Local Rule 79-5. Protected Material may only be filed under seal
28 pursuant to a court order authorizing the sealing of the specific Protected Material
at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a

1 request establishing that the Protected Material at issue is privileged, protectable as
2 a trade secret, or otherwise entitled to protection under the law. If a Receiving
3 Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
4 5 is denied by the court, then the Receiving Party may file the Protected Material in
5 the public record pursuant to Civil Local Rule 79-5 unless otherwise instructed by
6 the court.

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2 **15. FINAL DISPOSITION**

3 Within 60 days after the final disposition of this action, as defined in
4 paragraph 4, each Receiving Party must return all Protected Material to the
5 Producing Party or destroy such material. As used in this subdivision, "all Protected
6 Material" includes all copies, abstracts, compilations, summaries, and any other
7 format reproducing or capturing any of the Protected Material. Whether the
8 Protected Material is returned or destroyed, the Receiving Party must submit a
9 written certification to the Producing Party (and, if not the same person or entity, to
10 the Designating Party) by the 60-day deadline that (1) identifies (by category,
11 where appropriate) all the Protected Material that was returned or destroyed and (2)
12 affirms that the Receiving Party has not retained any copies, abstracts,
13 compilations, summaries or any other format reproducing or capturing any of the
14 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
15 archival copy of all pleadings, motion papers, trial, deposition, and hearing
16 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
17 reports, attorney work product, and consultant and expert work product, even if
18 such materials contain Protected Material. Any such archival copies that contain or
19 constitute Protected Material remain subject to this Confidentiality Order as set
20 forth in Section 4 (DURATION).

21
22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23
24
25 DATED: May 3, 2013
26
27



The Honorable Arthur Nakazato,
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
or type full address], declare under penalty of perjury that I have read in its
ty and understand the Confidentiality Order that was issued by the United
s District Court for the Central District of California on [date] in the case of
. *City of Anaheim et al.*, Case No. 8:12-cv-00838-JVS (ANx). I agree to
ly with and to be bound by all the terms of this Confidentiality Order and I
rstand and acknowledge that failure to so comply could expose me to sanctions
unishment in the nature of contempt. I solemnly promise that I will not
ose in any manner any information or item that is subject to this
dentiality Order to any person or entity except in strict compliance with the
sions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Confidentiality Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number] as my
California agent for service of process in connection with this action or any
proceedings related to enforcement of this Confidentiality Order.

Date:

City and State where sworn and signed:

Printed name: _____

[printed name]

Signature:

[signature]